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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of	)	
	)	
Closed Captioning and Video	)	
Description of Video Programming	)	MM Docket No. 95-176
	)	
Implementation of Section 305 of	)	
the Telecommunications Act of 1996	)	
	)	
Video Programming Accessibility	)	

COMMENTS OF RADIO-TELEVISION NEWS DIRECTORS ASSOCIATION

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**COMMENTS OF RADIO-TELEVISION NEWS DIRECTORS ASSOCIATION**

The Radio-Television News Directors Association ("RTNDA"), by its attorneys, hereby submits its comments in response to the Notice of Proposed Rulemaking ("Notice"), released in the above-captioned proceeding on January 17, 1997.<sup>1</sup> The Commission's Notice seeks comment on proposed rules and implementation schedules for captioning of video programming, as required by Section 305 of the Telecommunications Act of 1996 ("1996 Act").<sup>2</sup> Section 305 added a new Section 713, Video Programming Accessibility, to the Communications Act of 1934, as amended, 47 U.S.C. § 713, which requires the Commission to prescribe such rules by August 8, 1997.

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<sup>1</sup> FCC 97-4, released January 17, 1997.

<sup>2</sup> Pub.L. 104-104, 110 Stat. 56 (1996).

## **I. INTRODUCTION AND SUMMARY**

RTNDA is the world's largest professional organization devoted exclusively to electronic journalism. RTNDA's membership includes news executives in broadcasting, cable and other electronic media in more than thirty countries.

As a general matter, RTNDA believes that increasing the availability of programming that is accessible to the hearing impaired is a laudable goal. In recent years, RTNDA's members have expended considerable resources to achieve this goal. As the record in this proceeding demonstrates, the overwhelming majority of network news is closed captioned. CNN, CNN Headline News and CNBC caption between 25 and 50% of their programming each week. Notice at 12. With respect to local stations, RTNDA's own informal survey corroborates the information provided by the National Association of Broadcasters ("NAB") -- approximately eighty percent of all television stations caption their local news.

News organizations, then, have demonstrated a firm commitment to affording disabled Americans access to news programming, and significant progress has been made. This progress has come without regulation, over time with increased availability of captioning resources, and in response to the wishes of consumers. Given the value of and demand for news programming, market forces have worked naturally to ensure that captioning of news programming is occurring on an expedited schedule. Undue regulation would serve only to

interfere with the natural workings of the marketplace, diminish the quality of local newscasts, and work to the detriment of all viewers.

More specifically, while RTNDA concurs with Congress' and the Commission's conclusion that maximizing access to news programming for the hearing impaired is a legitimate goal, RTNDA believes that unequivocally mandating that 100% of news programming immediately be closed captioned using real-time closed captioning, as suggested by certain advocates for the hearing impaired, is neither a legitimate nor a realistic goal. In fact, such a requirement would have ramifications inconsistent with Congressional intent and Commission policy as a whole.

As a preliminary matter, given the limited number of captioners skilled enough to provide real-time captioning, any suggestion that local news be real-time captioned in the short-term is completely unrealistic. Even if the necessary resources were available, a great number of local news organizations simply could not bear the exponentially increased cost of providing real-time captioning, or would be forced to make cutbacks that would impact negatively on the quality and local nature of their news broadcasts. Such a result is inconsistent with the public's interest in preserving diversity of programming, and ensuring that local programming responds to the needs of the community.

Finally, RTNDA believes that if certain small local stations are to continue to air locally-originated news programming at all, they will be forced to pursue waivers from whatever closed captioning rules the Commission adopts. The Commission should implement a liberal waiver policy with respect to such stations.

In sum, RTNDA submits that: (1) the Commission should refrain from specifying an earlier implementation schedule for certain types of programming, including live local news; (2) the Commission should afford local news organizations the flexibility to utilize whatever captioning methodology best suits their needs; and (3) the Commission should adopt a liberal waiver policy for exempting local news programming aired on small stations from the closed captioning requirements.

## **II. BACKGROUND**

### **A. Captioning Methodologies Used for Local News**

RTNDA's members use two primary means to caption their live news programs. The first method, stenographic or real-time captioning, involves the use of a live stenographer. This highly-skilled captioner types the words used in the newscast as they are being spoken. The resulting captions appear on-screen within seconds. Stations may either hire a stenographer who is located on-site, or they may use a

captioning service whereby the stenographer works from a distant location connected to the station by telephone or other communications link.

As the record in this proceeding demonstrates, real-time captioning has certain advantages -- typically, all aural portions of a newscast can be captioned using real-time captioning, and the quality and accuracy of the captions generally is high. The drawbacks currently associated with real-time captioning, however, are significant. First, the availability of captioners with the required skill levels to fulfill any requirement that local news be real-time captioned is minimal. Second, the cost of real-time captioning is prohibitively high. RTNDA's members estimate that the cost of real-time captioning, depending upon the quality demanded, can run anywhere from \$120 to \$1,200 per hour.

The alternative captioning method, known as electronic newsroom ("ENR") captioning, feeds scripts of material prepared for newscasts from a TelePrompter or other station computer into a captioning encoder. Most newsrooms use this method because of its significant cost advantage -- once a station has purchased the necessary captioning equipment and software (at an estimated cost of between \$2,500 and \$5,000), the continued operating costs for providing captioning are exponentially lower than those for real-time captioning. ENR captioning, however, cannot provide captions for ad-libbed material or live interviews, for example. Thus, some aural portions of the newscast may not be captioned.

## **B. RTNDA's Member Survey**

To develop information concerning the captioning of local news programming, RTNDA conducted an informal survey of its members. Of the 187 member stations that responded, 77% provide closed captioning of their local news programming. Of those stations, 75% use the ENR captioning method; 35 stations reported that they use real-time captioning. Of the 33% of stations that offer no closed captioning, the majority were located in small markets (Nielsen DMAs 110+) and cited the cost of captioning as prohibitive.

## **III. THE COMMISSION SHOULD NOT ADOPT AN EXPEDITED CAPTIONING SCHEDULE FOR LOCAL NEWS PROGRAMMING**

RTNDA believes that the ten year transition period proposed by the Commission for the gradual implementation of captioning of new programming is a reasonable one. At Paragraph 42 of the *Notice*, however, the Commission seeks comment on whether there are certain types of programming, among them live local news, for which an earlier implementation schedule should be adopted. RTNDA submits that the Commission should impose no more specific or expedited deadlines on the captioning of local news programs. As the record in this proceeding demonstrates, marketplace forces have served to create a priority for the captioning of local news and will continue to ensure that the hearing impaired have access to important programming.



Consistent with Congress' intent, the rules proposed by the Commission leave programmers with significant discretion as to how they will allocate limited captioning resources. An expedited schedule for certain programming would contravene that intent. Moreover, programmers have every incentive to prioritize captioning of programming that has the potential to reach the largest number of viewers, including hearing impaired viewers. Local and national news programming is consistently among the most watched programming on television. It is inevitable then, that resources will be devoted to captioning this valuable informational programming first. History demonstrates this fact -- given its value to viewers, and without closed captioning rules, virtually all of the news programming offered by the major networks is closed captioned. As both the NAB and RTNDA have estimated, almost 80% of television stations already caption their local news.

The imposition of onerous regulation on news programming, then, simply cannot be justified. Programmers will continue to sense demands for closed captioning, and respond with attractive and cost-effective solutions that will ensure that the hearing impaired have access to a full range of programming, especially important news programming. Those stations which have not, to date, captioned their local news programming should be afforded sufficient time to implement captioning procedures, seek out underwriters, and allocate costs. Should stations be forced to caption news programming prematurely, they might be forced to reduce the number of

hours of news programming aired, opt to air pre-captioned news programming that is not locally-produced, and/or cut back on staff, thus diminishing both the quality and quantity of local news programming, to the detriment of all viewers.

**IV. THE COMMISSION SHOULD NOT  
RESTRICT THE TYPE OF CAPTIONING  
METHODOLOGY USED TO CAPTION NEWS  
PROGRAMMING**

RTNDA fully concurs with the Commission's tentative conclusion that it is not appropriate or necessary to restrict the captioning methodology used to achieve the goal of maximizing available captioning. Similarly, RTNDA agrees that adoption of regulations governing non-technical standards for quality and accuracy of closed captions is unwarranted. Consumers do not tolerate poor audio or video quality, and they similarly will not tolerate closed captioning that fails to meet acceptable standards. As has happened time and again with other enhancements to programming services, the marketplace will solve issues of quality standards much more quickly and efficiently than government regulation.

RTNDA opposes any requirement that would require stations to caption local news programming using the real-time captioning method. As described above, RTNDA's informal member survey indicates that currently only a small number of stations caption their local newscasts using real-time captioning. Many of these are major market stations, and

their captioning efforts are underwritten by corporate sponsors such as Bell Atlantic.

For the balance of stations, a real-time captioning requirement would prove devastating. Depending upon the number of hours of local news programming a station airs and the quality of real-time captioning, the estimated additional cost of implementing real-time captioning could run anywhere from \$50,000 to over one million dollars. Most of the stations responding to RTNDA's survey indicated that a move to real-time captioning would add at least \$100,000 to their budgets.

As a threshold matter and as discussed above, there currently exist a limited number of captioners and captioning services with the required skill levels to fulfill any real-time captioning requirement. For the Commission to mandate use of real-time captioning then, would prove not only too costly but also infeasible.

Further, the potential consequences of a real-time captioning requirement are devastating. Given the exponential costs associated with this technology, should the Commission require real-time captioning, small market stations might be forced to discontinue local news broadcasts altogether. The same holds true for small stations in large markets with limited market share. Given a limited audience base, there is simply no means through which these stations could justify real-time captioning economically. Many of the stations responding to RTNDA's survey indicated that a real-time

captioning requirement would force them to divert resources from newsgathering functions. For example, one station equated a real-time captioning requirement with the loss of at least two full-time reporters.

RTNDA does not disagree with those who suggest that, because of its high-quality and ability to caption all aural portions of a newscast, from the perspective of the hearing impaired, real-time captioning is preferable. The advantages of this methodology, however, must be weighed against the debilitating impact a real-time captioning requirement would have on broadcast stations and their local news operations. Again, because of its prohibitive expense, a real-time captioning requirement would result in reduction or loss of locally-originated news programming, or a noticeable decrease in the quality of such programming.

Given the ENR alternative, a real-time captioning requirement is unnecessary. While the ENR method admittedly has its drawbacks, it permits captioning of material that otherwise would not be captioned. ENR captioning does not allow for captioning of all aural portions of a program, but in response to consumer demand newsrooms have increased the amount of scripted material contained in their news broadcasts, where feasible. As technology improves, the quality of ENR-type captioning likely will improve.

Any requirement that all of a news broadcast be scripted so as to allow for full ENR captioning, however, would destroy the very nature of news programming. It would force newsrooms

to delay broadcast of breaking news stories, eliminate live interview segments, and prohibit any ad-libbing, to the detriment of all viewers.

Finally, RTNDA submits that captioning is not the only means through which the hearing impaired can receive information contained in local newscasts. The hearing impaired typically have access to the most salient information contained in the sports and weather segments through graphic or textual displays. With respect to late breaking news or emergency information, the use of crawlers, text, or graphics is commonplace to convey the importance of such information. Thus, the risk of hearing impaired individuals missing important information because of a lack of captioning is negligible.

**V. THE COMMISSION SHOULD ADOPT A  
LIBERAL WAIVER POLICY WITH  
RESPECT TO CAPTIONING OF LOCAL  
NEWS ON SMALL STATIONS**

In the 1996 Act, Congress directed the Commission to allow individual service providers to seek an exemption from the closed captioning requirements based on their particular circumstances. RTNDA supports the Commission's proposal to establish a mechanism through which parties may seek waivers of the closed captioning rules where they can show that the requirements would result in an undue burden.

RTNDA submits that, in the case of certain small market stations, exemption from the closed captioning requirements will prove necessary. Given limited production budgets, and

the limited size of the market served by and/or the small size of the audience share of certain local stations relative to the cost of closed captioning, it is likely that there will be numerous instances where captioning of local news is an impossibility. The Commission should adopt a liberal waiver policy in these instances. If not, some small local stations would be forced to consider dropping local news operations in their entirety, to the detriment of all viewers.

#### **VI. CONCLUSION**

Since news organizations have responded overwhelmingly to the challenge of providing greater access to news programming for the hearing impaired without artificial regulatory requirements, RTNDA believes that news-specific regulation of closed captioning is unnecessary. The Commission should forbear from adopting an expedited implementation schedule for the closed captioning of local news, afford news organizations complete flexibility in choosing the captioning methodology that best suits their needs, and adopt a liberal waiver policy with respect to closed captioning of local news on small stations. In this manner, the Commission will preserve the

integrity of news operations, the diversity of programming available to all viewers, and the quality and localism of news and information programming.

Respectfully submitted,

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